

DEC 19 1978

MICHAEL SPINAK, JR., CLERK

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1978

---

No. 78-615

---

INTERNATIONAL ASSOCIATION OF MACHINISTS AND  
AEROSPACE WORKERS, AFL-CIO,

*Petitioner,*

v.

NATIONAL LABOR RELATIONS BOARD,  
*Respondent,*

and

BOEING COMPANY,  
*Intervenor.*

---

**REPLY TO BRIEF  
FOR THE NATIONAL LABOR RELATIONS BOARD  
IN OPPOSITION**

---

PLATO E. PAPPS  
Machinists Building  
1300 Connecticut Avenue, N.W.  
Washington, D.C. 20036

MOZART G. RATNER  
1900 M Street, N.W.  
Washington, D.C. 20036

*Attorneys for Petitioner*

IN THE  
**Supreme Court of the United States**  
OCTOBER TERM, 1978

---

No. 78-615

---

INTERNATIONAL ASSOCIATION OF MACHINISTS AND  
AEROSPACE WORKERS, AFL-CIO,  
*Petitioner,*

v.

NATIONAL LABOR RELATIONS BOARD,  
*Respondent,*

and

BOEING COMPANY,  
*Intervenor.*

---

**REPLY TO BRIEF  
FOR THE NATIONAL LABOR RELATIONS BOARD  
IN OPPOSITION**

---

1. The Board's brief asserts, by sheer *ipse dixit*, p. 9, that the *Burns* exception should not be construed as requiring a prospective employer to opt between "planning" to retain his predecessor's workforce, on the one hand, and unilaterally reducing their wages without consulting their elected bargaining agent, on the other. But counsel's failure even to suggest any rational alternative confirms the validity, rationality and inevitability of our construction.

2. The Board's brief also unjustifiably attempts to convey the impression, pp. 2-3, that Boeing was willing to recognize and bargain with the IAM about initial terms and conditions of employment in the support services unit. But that suggestion flies in the face of the Board's finding (Pet. App. 78a), affirmed below (Pet. App. 6a), that Boeing adamantly conditioned recognition upon its legally erroneous "accretion" theory, which the Administrative Law Judge and the Board rejected (Pet. for Cert. 4 n.3), thereby frustrating the IAM's right to be consulted before wages and other terms of initial employment of incumbents would be fixed.

3. Contrary to Board counsel's implication, p. 3, the feasibility of a safety value alternative, staffing with outsiders, does not negate but rather confirms the existence of the preferred primary plan to retain.

Respectfully submitted,

PLATO E. PAPPS  
Machinists Building  
1300 Connecticut Avenue, N.W.  
Washington, D.C. 20036

MOZART G. RATNER  
1900 M Street, N.W.  
Washington, D.C. 20036

*Attorneys for Petitioner*